

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ASIA R.,

Plaintiff,

v.

ACTING COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

CASE NO. 2:20-cv-1157-DWC

ORDER AFFIRMING  
DEFENDANT'S DECISION TO  
DENY BENEFITS

Plaintiff filed this action, pursuant to 42 U.S.C. § 405(g), for judicial review of defendant's denial of plaintiff's application for supplemental security income ("SSI"). Pursuant to 28 U.S.C. § 636(c), Federal Rule of Civil Procedure 73, and Local Rule MJR 13, the parties have consented to have this matter heard by the undersigned Magistrate Judge. *See* Dkt. 2.

Despite traumatic events in her childhood, including witnessing her mother's ex-boyfriend kill her mother's boyfriend and the subsequent abandonment from her mother, plaintiff can be credited for demonstrating the resilience and ability to take care of her daughter, as well as do some babysitting for another child, and maintain some of her clinic visits for treatment.

1 Although plaintiff suffers from some severe impairments, including headaches, fibromyalgia,  
2 anxiety and depressive disorder, the ALJ's finding that plaintiff is not disabled is supported by  
3 substantial evidence in the record and therefore must be upheld.

4 Therefore, this matter is affirmed.

5 FACTUAL AND PROCEDURAL HISTORY

6 On April 14, 2015, plaintiff filed an application for disability insurance benefits ("DIB")  
7 and supplemental security income ("SSI") alleging disability as of March 31, 2018. *See* Dkt. 10,  
8 Administrative Record ("AR"), p. 21. The application was denied upon initial administrative  
9 review and on reconsideration. *See id.* A hearing was held before Administrative Law Judge  
10 ("ALJ") Tom L Morris on June 8, 2017. *See* AR 39-47. In a decision dated February 22, 2018,  
11 ALJ Morris determined plaintiff to be not disabled. *See* AR 13-35. Plaintiff's request for review  
12 of ALJ Morris's decision was denied by the Appeals Council, and the subsequent appeal to the  
13 District Court for the Western District of Washington was decided in plaintiff's favor. *Id.*  
14 Plaintiff appeared and testified at an additional hearing before ALJ Laura Valenti ("the ALJ") on  
15 March 5, 2020. *See id.*

16 On March 31, 2020, the ALJ issued a written decision determining plaintiff was not  
17 disabled, making the ALJ's decision the final decision of the Commissioner of Social Security  
18 ("Commissioner"). *See* AR 555-76; 20 C.F.R. § 404.981, § 416.1481. The ALJ found that  
19 plaintiff's DIB claim fails at Step 2 for a lack of objective medical evidence and plaintiff does not  
20 appear to have appealed this particular finding. *See* AR 570.

21 In plaintiff's Opening Brief, plaintiff maintains the ALJ erred by failing to decide  
22 plaintiff's SSI claim favorably, specifically: "the ALJ erred in failing to properly evaluate the  
23 opinions of the examining providers and provide adequate explanation for not according those  
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1 opinions greater weight, and in failing to properly explain her preference for the opinion of the  
 2 defendant agency medical consultants.” Plaintiff’s Open Brief, (“Open”) Dkt. 12, p. 2. Defendant  
 3 contends that (1) the ALJ reasonably considered the opinions of examining psychologist Jenna  
 4 Yun, Ph.D. which was contradicted by the opinion of a different examining psychologist and the  
 5 state agency psychological consultants; (2) the ALJ reasonably considered the opinion of  
 6 examining psychologist Holly Petaja, Ph.D., which was also contradicted by the opinions of an  
 7 examining psychologist and the state agency psychological consultants; and (3) the ALJ  
 8 reasonably considered the opinions of the state agency psychological consultants. Defendant’s  
 9 Response Brief (“Response”), Dkt. 13, pp. 1-2.

#### 10 STANDARD OF REVIEW

11 Pursuant to 42 U.S.C. § 405(g), this Court may set aside the Commissioner’s denial of  
 12 social security benefits if the ALJ’s findings are based on legal error or not supported by  
 13 substantial evidence in the record as a whole. *Bayliss v. Barnhart*, 427 F.3d 1211, 1214 n.1 (9th  
 14 Cir. 2005) (citing *Tidwell v. Apfel*, 161 F.3d 599, 601 (9th Cir. 1999)). “Substantial evidence” is  
 15 more than a scintilla, less than a preponderance, and is such ““relevant evidence as a reasonable  
 16 mind might accept as adequate to support a conclusion.”” *Magallanes v. Bowen*, 881 F.2d 747,  
 17 750 (9th Cir. 1989) (quoting *Davis v. Heckler*, 868 F.2d 323, 325-26 (9th Cir. 1989)).

#### 18 DISCUSSION

##### 19 **I. Whether the ALJ erred by failing to consider properly the opinions of the** 20 **examining doctors in the record or erred by failing to explain adequately** **why the opinions were rejected.**

21 Plaintiff questions the ALJ’s evaluation of the medical evidence, specifically the  
 22 evidence from (1) examining psychologists Dr. Jenna Yun, Ph.D.; (2) Dr. Holly Petaja, Ph.D.;  
 23 versus (3) the non-examining state agency psychological consultants and state agency consulting  
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1 examining psychologist, Dr. Diane Cook, Ph.D. Open, Dkt. 12, p. 2. Defendant contends that the  
2 ALJ reasonably evaluated the medical evidence. Response, Dkt. 13.

3 The parties agree that in this matter, although the ALJ must provide “clear and  
4 convincing” reasons for rejecting the uncontradicted opinion of either a treating or examining  
5 physician or psychologist, when a treating or examining physician’s opinion is contradicted, that  
6 opinion can be rejected “for specific and legitimate reasons that are supported by substantial  
7 evidence in the record.” *Lester v. Chater*, 81 F.3d 821, 830-31 (9th Cir. 1996) (citations omitted).

8 The ALJ can accomplish this by “setting out a detailed and thorough summary of the  
9 facts and conflicting clinical evidence, stating h[er] interpretation thereof, and making findings.”  
10 *Reddick v. Chater*, 157 F.3d 715, 725 (9th Cir. 1998) (*citing Magallanes v. Bowen*, 881 F.2d  
11 747, 751 (9th Cir. 1989)). That is what the ALJ did here. *See id.*

12 When reviewing the medical evidence, the ALJ found that plaintiff has the severe  
13 impairments of headaches, fibromyalgia, obesity, anxiety and depressive disorder. AR 558  
14 (*citing* 20 CFR 404.15 20 (c) and 416. 920 (c)). After concluding that plaintiff’s impairments do  
15 not meet a Listing, the ALJ found that plaintiff had the residual functional capacity (“RFC”) to  
16 perform light work with the following additional limitations:

17 [S]tanding and walking . . . [and] postural activity [] limitations omitted]. . .  
18 The claimant can work superficially and occasionally with the general public and  
19 can interact occasionally with supervisors. She can work in the same room with  
20 coworkers, but there should be no coordination of work activity.

21 AR 561. Plaintiff challenges only limitations related to mental impairments. Open, Dkt. 12.

22 Regarding plaintiff’s allegations, the ALJ reviewed plaintiff’s physical allegations of  
23 limitation, and also noted that regarding “mental symptoms, [plaintiff] said it was hard to leave  
24 the house and be around people, which caused her to reschedule appointments and struggle with

1 public contact.” AR 562. The ALJ also noted plaintiff’s allegations of the tendency “to  
2 catastrophize in her thinking and [having the need] to leave public spaces all the time.” *Id.*

3 The ALJ included the following discussion of plaintiff’s allegations:

4 At a recent hearing, [plaintiff] alleged she is not working because it is hard to get  
5 out of bed due to fibromyalgia and anxiety. She testified that her primary  
6 problems are pain, depression, and anxiety. She takes ibuprofen for pain, but is  
7 not taking mental health medication because she alleged bad side effects of dry  
8 mouth and worsened headaches. She stated that she started getting headaches 4 to  
9 5 years ago and that she gets headaches 2 to 3 times a week that can last a couple  
10 of hours to sometimes days. She said that her pain from fibromyalgia can cause  
11 her to lose concentration because she is focused on pain. As for panic, the  
12 claimant described symptoms of heart pounding, getting “really jittery,” and  
13 getting really nervous, which she said she was currently experiencing, and that  
lasts at least 10 to 15 minutes, but can last as much as an hour. She said her last  
job in 2010 ended when she did not return one day and the job before that lasted a  
week, but she could not recall why it ended. She indicated that she is the primary  
care provider for her 7-year-old daughter and that she drives, but rarely. She  
asserted that on good days she will try to do housework and spent time with her  
daughter, but on a bad day, depending on how bad it is, she will get help from a  
friend or family member. She said on bad days, she cannot get out of her house,  
but that her brother lives about a mile away and will help as needed. She indicated  
bad days occur about half of the month.

14 AR 562.

15 Next, the ALJ explained why some of plaintiff’s allegations regarding physical  
16 limitations were not adopted into plaintiff’s RFC, and as noted, plaintiff is not challenging this  
17 aspect of the decision. *See id.* at 562-63. For example, despite complaining consistently of severe  
18 pain in various areas of the body, plaintiff “exhibited, upon examination and after the alleged  
19 onset date, normal strength, or normal muscle tone, in all assessed muscle groups.” AR 563  
20 (internal citations omitted). The ALJ noted that despite presenting with back complaints and  
21 being advised to try physical therapy, plaintiff “did not follow through, with no explanation for  
22 noncompliance with medical advice.” *Id.* Bearing some relevance to mental impairments, the  
23 ALJ noted that when seeking treatment for chronic migraine headache complaints, despite  
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1 presenting with some tenderness and pain, plaintiff's "examination was relatively normal, she  
2 was alert and oriented, and displayed normal behavior, mood and affect, and judgment and  
3 thought content." *Id.* (citing Exhibit 15F-14 *i.e.*, AR 1014)). The ALJ continued her evaluation of  
4 the medical evidence and record:

5       Regarding mental impairments, the regular notations in [plaintiff]'s treatment  
6 records of minimal psychiatric observations are inconsistent with her allegations  
7 of extremely limiting mental health symptoms. During the relevant period,  
8 treatment notes document the [plaintiff] as alert and oriented. She often had  
9 normal mood and affect as well as normal and cooperative behavior. Despite  
10 some complaints of depressive symptoms, providers observed she also had  
11 normal judgment and thought content. Even with complaints of body pain and  
12 tenderness in multiple areas of her body, [plaintiff's] MSE was normal.

13 AR 563 (internal citations omitted).

14       After finding that plaintiff's "relatively benign presentation does not corroborate her  
15 description of marked/severe social, cognitive, and mental dysfunction," the ALJ continued with  
16 further discussion of plaintiff's complaints of anxiety, PTSD, and depression, noting "some  
17 improvement with counseling." AR 564. The ALJ continued in the written decision, with the  
18 detailed and thorough summary of evidence from the record. *See* AR 564-66.

19       For example, regarding plaintiff's "complaints of anxiety, PTSD, and depression, [the  
20 ALJ noted] some improvement with counseling [after sporadic treatment between 2015 and  
21 2018] and was often able to maintain therapeutic gains." AR 564 (internal citations omitted).  
22 Similarly, in the ALJ's written decision, the ALJ noted that plaintiff "even joined a social  
23 anxiety group and her only noted difficulty in attending was due to child care issues, [and the  
24 ALJ noted plaintiff's] reported improvement in anxiety when doing yoga." *Id.* (citing AR 817,  
842 (14 F/1, 26)).

1 The ALJ also noted plaintiff's "performance and mental status examinations ["MSEs"]  
2 were not consistent with her allegations." AR 564. The ALJ gave examples: "in [plaintiff's] June  
3 2015 consultative examination, [plaintiff] had vague complaints of depression and anxiety, but  
4 admitted to no current mental health treatment, but still was able to go to methadone clinic twice  
5 a week, and maintained a fairly normal mental status, [completing] digits spans up to 6 digits  
6 forward and 4 digits backward." *Id* (citing AR 350 (5F/2); see also AR 368 (7F/5)). The ALJ  
7 also noted other positive aspects of plaintiff's MSE, for example noting plaintiff's immediate  
8 memory of 3/3 items and up to 2/3 items after a 5 minutes delay, as well as plaintiff's ability "to  
9 complete serial 7s, up to 30, serial 3 subtractions without error and spell 'world' correctly both  
10 forward and backward." AR 564 (citing AR 350 (5F/2); see also AR 368 (7F/5)).

11 The Court has reviewed the record, including the citations from the ALJ and the written  
12 decision. The Court concludes that the ALJ's findings as discussed are based on substantial  
13 evidence in the record (see, e.g., AR 350, 817, 842 (5F/2; 14 F/1, 26)).

14 The ALJ also relied on plaintiff's "ability to act as the primary caregiver for her child,"  
15 finding it "inconsistent with her reported limitations." AR 564. The ALJ found that despite  
16 plaintiff's suggestion that she gets help on bad days about half of the month, plaintiff "told a  
17 psychological examiner in 2015 that she wakes when her baby does, feeds her, plays with her,  
18 takes her to the playground, and attends a moms' group [that] focuses on positive parenting." AR  
19 564-65 (citing AR 351 (5F/3)). Despite the reflection in the record noted by the ALJ, that  
20 plaintiff reported depression on some days, the ALJ noted that plaintiff demonstrated the ability  
21 "to care for her child's basic needs, has brought her young child and a child she was babysitting  
22 to medical appointments, and despite pain, [plaintiff] was seen chasing her throughout the hall."  
23 AR 565 (citing AR 454, 469, 1001 (11 F/20, 35; 15 F/1)). Plaintiff is correct that in isolation the  
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1 fact that a claimant engages in childcare is not a legitimate basis to deny their claims of disabling  
2 limitations. However, based on a review of this particular record, with the citations noted, the  
3 Court concludes that the ALJ's findings that plaintiffs "statements and actions suggest she relies  
4 on others' support less often and is more capable than alleged [and that the] ability of [plaintiff]  
5 to act as the care taker for her child is incompatible with her allegations," are findings based on  
6 substantial evidence in the record as a whole. *See, e.g.*, AR 454, 1001.

7 Similarly, the ALJ noted differing reports of plaintiff's anxiety and panic, as well as her  
8 various activities and hobbies. *See* AR 565-66 (internal citations omitted)). For example, the ALJ  
9 noted that by April 2018 although plaintiff reported still having frequent anxiety/panic episodes,  
10 she also reported the ability "to take it easier, 'just feel less scared and may be a little more  
11 prepared,' and is able to do more activities with her kid." AR 566 (*citing* AR (14 F/15, 17)). In  
12 defendant's Response Brief, defendant directs the Court to additional evidence in the record  
13 providing further substantial evidence in support of the ALJ's finding, noting that on October 18,  
14 2019, plaintiff "Denies any depressed mood, anxiety or sleep issues." Response, Dkt. 13, p. 8  
15 (*citing* AR 1016 (15 F/16)). Based on a review of the record, the Court concludes that the ALJ's  
16 finding that plaintiff's treatment record contradicts plaintiff's allegations of disabling anxiety is a  
17 finding based on substantial evidence in the record as a whole. *See, e.g.*, AR 324 (April 16, 2015:  
18 "she has a normal mood and affect. Her behavior is normal. Judgment and thought content  
19 normal"); AR 325 (January 21, 2015: "she has a normal mood and affect. Her behavior is  
20 normal."); AR 1016 (October 18, 2019: "Denies any depressed mood, anxiety or sleep issues").

21 It is at this point in the written decision where the ALJ discusses the medical opinion  
22 evidence from the state agency consultants and gives the opinions "significant weight." *See* AR  
23 566.



1       **A. State Agency consultants**

2       Plaintiff contends that the ALJ “did not provide adequate or specific and legitimate  
3 explanations for why she preferred the medical consultants’ opinions over that of the examiners.”  
4 *See Open*, Dkt. 12, p. 14. Defendant responds an ALJ “only needs to provide reasons for  
5 rejecting medical opinions, not for adopting them.” Response, Dkt. 13, p. 9 (*citing Orteza v.*  
6 *Shalala*, 50 F.3d 748, 750 (9<sup>th</sup> Cir. 1995)). Defendant’s argument is persuasive and the Court  
7 notes that plaintiff cites no law in support of the argument that the ALJ did not provide adequate  
8 explanation for preferring medical consultants’ opinions. *See Open*, Dkt. 12, p. 14.

9       The ALJ noted that on July 13, 2015, Dr. Leslie Postovoit PhD opined that plaintiff “was  
10 capable of work in a primarily independent work setting with superficial social demands and  
11 interaction with supervisors, coworkers, and the general public,” an opinion that was concurred  
12 with by Dr. Carla Van Dam PhD on December 10, 2015. AR 566 (*citing* AR 88-109 (1A/2A)).  
13 The ALJ found that these medical opinions from the state agency consultants are “consistent  
14 with each other based on their independent reviews of the record [and] are also consistent with  
15 the minimal observations of psychiatric difficulty, [MSEs], [plaintiff’s] ability to attend  
16 treatment, improvement with therapy, [plaintiff’s] statements to providers, and her ability to act  
17 as the primary caregiver for her young daughter.” AR 566. The ALJ’s discussion regarding the  
18 opinions of the state agency medical consultants is based on substantial evidence in the record, as  
19 it is supported by such ““relevant evidence as a reasonable mind might accept as adequate to  
20 support a conclusion.”” *Magallanes v. Bowen*, 881 F.2d 747, 750 (9<sup>th</sup> Cir. 1989) (*quoting Davis*  
21 *v. Heckler*, 868 F.2d 323, 325-26 (9<sup>th</sup> Cir. 1989)).

22       Before moving on to the opinions from the examining psychologists at issue in this  
23 matter, in her written decision, the ALJ next discussed the opinion from consultative  
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1 psychological examiner, Dr. Diana Cook, PhD. *See* AR 567 (*citing* AR 349-52 (5F)). The ALJ  
2 assigned “significant weight” to this opinion, noting Dr. Cook’s opinion that plaintiff “is able to  
3 take instruction, complete simple and repetitive as well as more complex tasks during the  
4 intellectual portion of the examination,” and noting that Dr. Cook observed that plaintiff “seems  
5 able to get along with others, although she stated she does not go out and noted she does not  
6 seem to have a support system.” *Id.* The ALJ noted the lack of opined limitations from Dr. Cook  
7 which would have prevented plaintiff from performing work, and in addition, noted that “the  
8 activities of daily living [plaintiff] reported to this provider are substantial, more so than when  
9 (sic) she disclosed at [the] hearing.” *Id.* The ALJ provided an example, noting that plaintiff, to  
10 Dr. Cook, made “no mention of anyone helping her with caring for her young daughter, grocery  
11 shopping, etc., which is consistent with the treatment notes showing [plaintiff] was sometimes  
12 accompanied by her child.” AR 567.

13         The Court, upon review of the relevant evidence, concludes that the ALJ’s findings  
14 regarding Dr. Cook’s opinions are supported by substantial evidence in the record. Dr. Cook  
15 examined plaintiff on June 30, 2015. *See* AR 349-352. Regarding general appearance, Dr. Cook  
16 observed that plaintiff’s hair appeared clean and that plaintiff “looks to engage in consistent  
17 moderate grooming and hygiene.” *See* AR 350. Dr. Cook took note of plaintiff’s report of her  
18 abusive childhood history and noted that plaintiff’s “thought content is positive for some angst  
19 and shyness.” *See id.* Dr. Cook observed that plaintiff presented with “a broad range of affect,”  
20 although plaintiff’s mood was “stated as ‘pretty anxious and nervous.’” *Id.* Plaintiff  
21 demonstrated full orientation and completed digit span to six digits forward and four digits  
22 backward. *Id.* Dr. Cook valued plaintiff as capable of completing serial 7s and noted that plaintiff  
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1 correctly spelled “world” forward and backward, representing some concentration ability. *See*  
 2 AR 351. Dr. Cook opined that plaintiff “is able to stay focused.” *See* AR 351.

3 Dr. Cook assessed plaintiff with a diagnosis of depression; anxiety and a rule out  
 4 diagnosis for PTSD symptomatology, among other assessments. *Id.* Dr. Cook opined that  
 5 plaintiff’s work history “was relatively stable,” and that plaintiff seemed “to be on a positive  
 6 trajectory, and in the beginning stages of improving her lot.” *Id.* In her functional assessment, Dr.  
 7 Cook opines that plaintiff “is able to take instruction, complete simple and repetitive, as well as  
 8 more complex tasks during the intellectual portion of the exam.” AR 352. Dr. Cook also assessed  
 9 that plaintiff “seems able to get along with others, although she states she does not go out.” *Id.*

10 As already noted, *see supra*, based on a review of the record, the Court concludes that the  
 11 ALJ’s findings that the opinions of Dr. Cook, examining psychologist, are consistent with  
 12 minimal observations throughout the record of psychiatric difficulty is a finding based on  
 13 substantial evidence. It is supported by the observations of examining psychologist, Dr. Cook  
 14 herself, as well as the other reflections from the treatment record in the written decision by the  
 15 ALJ noted above, *see supra*.

#### 16 **B. Dr. Jenna Yun, Ph.D., examining psychologist**

17 After reviewing some of plaintiff’s treatment record, the evidence from the state agency  
 18 non-examining consultants and the evidence from state agency examining medical consultant Dr.  
 19 Cook, the ALJ next evaluated the opinions from Dr. Jenna Yun, PhD, who evaluated plaintiff in  
 20 October 2015, November 2016, November 2017 and November 2019. *See* AR 567. The ALJ  
 21 found that the opinions from Dr. Yun “noting likely incapacitated for 9 to at most 12 months are  
 22 equivocal temporal examinations.” *See id.* Defendant contends that this particular reason “was  
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1 not sufficient, though the error was harmless because the ALJ gave at least one good reason.”  
2 Response, Dkt. 13, p. 7, n 1.

3 The Ninth Circuit has “long recognized that harmless error principles apply in the Social  
4 Security Act context.” *Molina v. Astrue*, 674 F.3d 1104, 1115 (9th Cir. 2012) (citing *Stout v. v.*  
5 *Comm’r, Soc. Sec. Admin.*, 454 F.3d 1050, 1054 (9th Cir. 2006)). An error is harmless if it is  
6 “‘inconsequential to the ultimate non[-]disability determination.’” *Molina*, 674 F.3d at 1117  
7 (quoting *Carmickle v. Comm’r, Soc. Sec. Admin.*, 533 F.3d 1155, 1162 (9th Cir. 2008)).

8 The Court agrees with defendant that based on this particular record, the ALJ’s finding  
9 regarding “equivocal temporal examinations,” is not sufficiently legitimate rationale for failing  
10 to credit fully the opinions from Dr. Yun; however, the Court also agrees that the error is  
11 harmless. *See id.* As discussed below, *see infra*, the Court concludes that the ALJ provided other,  
12 legitimate rationale supported by substantial evidence for failing to credit fully the opinions from  
13 Dr. Yun. The Court also concludes that the record does not demonstrate that reliance on this  
14 equivocal temporal factor affected the ultimate determination, given the other evidence of record.

15 In her written decision, the ALJ acknowledged that Dr. Yun examined plaintiff on four  
16 separate occasions over the course of four years, despite plaintiff’s argument that the ALJ did not  
17 acknowledge that this examining source evaluated plaintiff on multiple occasions. *See* AR 567.  
18 Plaintiff contends that the ALJ “provided limited and inadequate explanation” when failing to  
19 credit fully medical opinions of Dr. Yun. Open, Dkt. 12, p. 5.

20 Dr. Yun’s opinions regarding disabling and/or marked and severe limitations are  
21 contradicted by the opinions of the state agency consultants and the other examining  
22 psychologist’s opinion discussed above, *see supra*, Section A. Plaintiff acknowledges that an  
23 ALJ can provide specific and legitimate reasons supported by substantial evidence in the record  
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1 to reject contradicted opinions from examining doctors “by setting out a detailed and thorough  
2 summary of the facts and the conflicting evidence, stating her interpretation of the facts and  
3 evidence, and making findings.” *Id.* at 3 (citing *Magallanes v. Bowen*, 881 F.2d 747, 751 (9th  
4 Cir. 1989)). Based on a review of the record, including review of the ALJ’s written decision as  
5 discussed above, *see supra*, the Court concludes the ALJ set out a detailed and thorough  
6 summary of the facts and conflicting evidence, stated her interpretation thereof, and made  
7 findings supported by substantial evidence. *See Magallanes, supra*, 881 F.2d at 751.

8         The Court already has delineated above, *see supra*, the detailed and thorough summary  
9 from the ALJ’s written decision of much of the evidence regarding plaintiff’s claim. When  
10 discussing the opinion from Dr. Yun, the ALJ found that Dr. Yun’s “findings that [plaintiff] was  
11 mostly within normal limits is inconsistent with the exaggerated check-marked limitation she  
12 opined without reasonable narrative to explain the deviation.” AR 567. The ALJ also found Dr.  
13 Yun’s “opinions are inconsistent with the contemporaneous treatment records showing minimal  
14 observations of psychiatric difficulty, some improvement with therapy, situational stressors  
15 influencing [plaintiff’s] presentation, and other mental status examinations showing greater  
16 capacity.” *Id.* For these reasons, the ALJ gave the opinions “no weight.” *Id.*

17         Although plaintiff complains that the ALJ’s reasons are insufficiently explained, it is the  
18 entirety of the ALJ’s discussion in context, as already discussed above, *see supra*, that provides  
19 the specificity and substantial evidence supporting the rationale. For example, regarding  
20 inconsistency with “contemporaneous treatment records showing minimal observations of  
21 psychiatric difficulty,” the Court already has discussed how the ALJ’s written decision includes a  
22 discussion of plaintiff’s demonstrated full orientation and the completion of digit span tests to six  
23 digits forward and four digits backward upon mental status examination by Dr. Cook, who also  
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1 evaluated plaintiff as capable of completing serial 7s and noted that plaintiff correctly spelled  
2 “world” forward and backward, representing some concentration ability. *See* AR 350-51. As  
3 noted by the ALJ previously in the ALJ’s written decision, and as noted previously by the Court,  
4 *see supra*, Dr. Cook opined that plaintiff “is able to stay focused.” *See* AR 351. These findings  
5 upon examination with Dr. Cook are inconsistent with the impaired concentration opined by Dr.  
6 Yun, as noted by the ALJ, and provides specific and legitimate rationale based on substantial  
7 evidence for the ALJ’s finding that “other mental status examinations show[ed] greater  
8 capability,” and for the ALJ’s giving “no weight” to the opinions from Dr. Yun. *See id.* Dr. Yun  
9 opined that plaintiff’s concentration was not within normal limits, contradicting Dr. Cook, yet  
10 the detail Dr. Yun provided purportedly explaining this opinion includes only that plaintiff “was  
11 able to complete serial threes up to 30 without error she was able to spell WORLD forward and  
12 backward [and] demonstrated a digit span of 4 forward and 3 backward.” AR 808. This example  
13 provides ample and certainly substantial evidence for the ALJ’s finding of an inconsistency  
14 between the different MSEs as well as for the ALJ’s finding that the limitations opined by Dr.  
15 Yun are inadequately supported by Dr. Yun’s examination or her explanation. *See id.*

16 The Court concludes that the ALJ provided substantial evidence in support of the specific  
17 and legitimate rationale for failing to credit fully the opinions from Dr. Yun. *See id.*

18 Similarly, also inconsistent with the marked and severe mental limitations opined by Dr.  
19 Yun, including in November 2019, *see* AR 806, as noted above, *see supra*, in October 2019  
20 plaintiff denied “any depressed mood, anxiety or sleep issues.” AR 1016. Although plaintiff is  
21 correct that this portion of the record could be interpreted differently, such as waxing and waning  
22 of symptoms, if the record is subject to multiple rational interpretations, including one that  
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1 supports the findings by the ALJ, the ALJ's decision "must be upheld." *Thomas v. Barnhart*, 278  
 2 F.3d 947, 954 (9th Cir. 2002) (*citing Morgan, supra*, 169 F.3d at 599, 601).

3 For the reasons stated and based on the record as a whole, the Court concludes that the  
 4 ALJ provided specific and legitimate rationale in the entirety of the written decision for the  
 5 failure to credit fully the opinions from examining doctor Dr. Yun. The Court also concludes that  
 6 any reliance on erroneous factors is harmless error: sufficient basis for the ALJ's decision is  
 7 found regardless of the errors. Although the ALJ's decision may not be perfect, it is supported by  
 8 substantial evidence.

9 **C. Dr. Holly Petaja, PhD, examining psychologist**

10 After evaluating the opinion from Dr. Yun, the ALJ evaluated the opinion from  
 11 examining psychologist, Dr. Petaja. *See* AR 567. The ALJ included the following in her written  
 12 decision:

13 In November 2018, DSHS examiner, Holly Petaja opined marked overall  
 14 impairment with some severe findings and impaired memory concentration on  
 15 exam (internal citation to AR 793-801 (13 F/15-23)). Her opinion is given no  
 16 weight. She reviewed no records and [plaintiff's] performance in her mental status  
 17 examination is inconsistent with contemporaneous treatment records showing  
 relatively normal mental status, with some improvement in therapy, with social  
 stressors influencing the claimant's presentation, with [plaintiff's] statements to  
 providers, and with [plaintiff's] ability to act as the primary caregiver to her  
 young daughter.

18 AR 567.

19 As with Dr. Yun's opinion, it is in the context of the full detailed discussion already  
 20 having taken place in the ALJ's written decision, as discussed above, *see supra*, that the actual  
 21 findings stated regarding Dr. Petaja's opinions are supported by substantial evidence. Therefore,  
 22 the Court includes that the ALJ, in the context of this ALJ's written decision, provided specific  
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1 and legitimate reasons supported by substantial evidence for the failure to credit fully the  
2 opinions of Dr. Petaja. *See Magallanes, supra*, 881 F.2d at 751.

3       The Court already has discussed in the context of the opinion of Dr. Yun how the ALJ  
4 has provided a detailed and thorough discussion of the conflicting medical evidence in her  
5 written decision, *see supra*. Similar to the discussion above, *see supra*, Section B, in the context  
6 of the opinion of Dr. Petaja, the Court notes that Dr. Petaja similarly opined that plaintiff's  
7 concentration was not within normal limits, yet similarly provided no detailed explanation, while  
8 listing mostly normal MSE results, with apparently only abnormal serial 7s results. *See* AR 797.  
9 The ALJ's finding that plaintiff's performance in her MSE with Dr. Petaja "is inconsistent with  
10 contemporaneous treatment records showing relatively normal mental status . . . ." is therefore  
11 based on substantial evidence in the record. *See, e.g.*, AR 351 ("[plaintiff] completes serial 7s"),  
12 AR 1016 (plaintiff denied "any depressed mood, anxiety or sleep issues"). As the Court has  
13 noted previously, *see supra*, plaintiff successfully completed serial 7s upon examination with Dr.  
14 Cook, who opined plaintiff "is able to stay focused." *See* AR 351.

15       In addition, Dr. Petaja opined the highest level of limitations in some areas, and opined  
16 for example, that plaintiff suffered from marked limitations in her ability to perform routine tasks  
17 without special supervision, and suffered from overall severity limitation rating of "severe," the  
18 highest rating level. *See* AR 799. Based on the record as a whole, the Court concludes that the  
19 ALJ's finding that the opinions from Dr. Petaja that plaintiff suffered from overall the highest  
20 level severity of limitations is inconsistent with her ability to care for her daughter and babysit  
21 for another child is a finding based on substantial evidence in the record as a whole. This finding  
22 also supports the ALJ's failure to credit fully the opinions from Dr. Petaja. Again, the Court  
23 finds no harmful legal error. Although not every reason relied on by the ALJ may have been  
24



proper, there is at most harmless legal error. The ALJ's failure to credit fully some of the opinions from some of plaintiff's examining doctors, including the opinions from Dr. Petaja, is supported by specific and legitimate reasons based on substantial evidence in the record delineated by the ALJ in her written decision.

**II. Whether the Court should remand with the direction to award benefits or for further proceedings.**

The Court concludes that the ALJ has not committed any harmful legal error. Therefore, the ALJ's decision should be affirmed and this matter should be dismissed. 42 U.S.C. § 405(g).

CONCLUSION

Based on the foregoing reasons, the Court hereby concludes the ALJ properly concluded plaintiff was not disabled. Accordingly, defendant's decision to deny benefits is AFFIRMED.

Dated this 22nd day of July, 2021.



David W. Christel  
United States Magistrate Judge